

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 9 ADULT AND COMMUNITY CARE PROGRAMS

CHAPTER 1454

LICENSING OF HOME AND COMMUNITY-BASED
CASE MANAGEMENT AGENCIES

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§17-1454-2 Definitions. As used in this chapter:

"Abuse" means actual or imminent physical injury, psychological abuse, or neglect, sexual abuse, financial exploitation, negligent treatment, or maltreatment, as further defined in section 346-222, HRS.

"Adverse event" means any incident or event that may have quality of care implications for residents in community care foster family homes.

"Agency" means a person, agency, or organization that is seeking to be licensed by the department as a home and community-based case management agency.

"Case management" means the process of continuous assessment of the service needs of the resident in a community care foster family home, the development, review, and updating, as necessary, of the service plan, and the locating, coordinating, and monitoring of an integrated and comprehensive combination of services necessary to cost effectively maintain and support, and ensure the welfare of the community care foster family home resident in the community, on a twenty-four hour basis. Case management is intended to assist the resident to access needed care and services on a timely basis and to prevent inappropriate institutionalization through a thorough consideration of community-based alternatives.

"Case manager" means an individual other than and not related to the caregiver that locates, coordinates, and monitors comprehensive services to meet a resident's needs.

"Certificate of approval" or "certificate" means the certificate issued by a licensed home and community-based case management agency which authorizes a person, agency, or organization to operate a community care foster family home.

"Community care foster family home" or "home" means a home issued a certificate of approval by a licensed home and community-based case management agency to provide, for a fee, twenty-four-hour living accommodations, including personal care and homemaker services, for not more than two adults at any one time who are at the nursing facility level of care and who are unrelated to the foster family.

"Criminal history record check" means an examination of an individual's criminal history record through fingerprint analysis and name inquiry into national and State criminal history record files.

"Home and community-based case management agency"

or "case management agency" means a person, agency, or organization that is licensed by the department to certify community care foster family homes, and to locate, coordinate, and monitor comprehensive services to meet the needs of residents whom the case management agency places in community care foster family homes or expanded adult residential care homes.

"Home health aide" means an individual who has had one year of full-time employment as a nurse aide, or completed a nurse or home health aide course in a community college in Hawaii, or an equivalent course elsewhere.

"Homemaker services" means those tasks performed by the caregiver that healthy individuals would do for themselves, including but not limited to laundry, shopping, meal preparation, and keeping the resident's room safe and sanitary. Housekeeping activities that do not directly pertain to the community care foster family home resident, such as household maintenance and overall house cleaning are not homemaker services.

"License" means an approval issued by the department for an agency to operate as a home and community-based case management agency.

"Licensed practical nurse" or "LPN" means an individual licensed as a practical nurse by the State of Hawaii, pursuant to chapter 457, HRS.

"Nurse aide" means an individual who has successfully completed an approved nurse aide course, or has passed an approved equivalency test, or an individual who has one year of full-time employment as a nurse aide under the supervision of a registered nurse in a hospital, skilled nursing facility, intermediate care facility, or home health agency.

"Nursing facility level of care" means the level of care provided at skilled nursing facilities where the resident would require daily skilled nursing services on more than one shift per day or daily restorative skilled rehabilitative services or a combination of skilled nursing and rehabilitative services; or at intermediate care facilities where the resident would require intermittent skilled nursing, a daily skilled nursing assessment, and twenty-four hour supervision.

"Personal care" means assisting with activities of daily living such as ambulating, mobility, transfer and lifting, positioning and turning, bowel and bladder care, toileting, bathing, dressing, grooming, feeding, exercise, medication assistance, range of motion, and

maintenance of health records.

"Physician" means a person who is licensed to practice medicine or osteopathy under chapter 453 or 460, HRS.

"Primary caregiver" or "caregiver" means the individual who is directly responsible for the supervision and care of the community care foster family home resident.

"Reassessment" means the formal review of a resident's status to determine if the resident's situation and functioning have changed since the initial or most recent assessment. The reassessment measures the progress toward the goals established in a service plan and ensures the resident's continued appropriateness for services through a community care foster family home.

"Registered nurse" or "RN" means an individual who is licensed as a registered nurse in the State of Hawaii, pursuant to chapter 457, HRS.

"Resident" or "client" means an individual who resides and receives case management services in a community care foster family home.

"Respite services" means temporary care in a community care foster family home where a resident currently resides, in another community care foster family home, or in an appropriate facility, to allow the primary caregiver relief from the care giving duties.

"Service plan" means a written plan that is based upon a comprehensive assessment of the client, including a review of the client's health, functional psychosocial, and financial situation, which specifies the type, provider, amount, duration and frequency of services necessary to maintain the individual in the community as a cost-effective alternative to institutionalization.

"Substitute caregiver" means an individual who is trained and identified in the service plan to provide daily personal care to clients in the absence of the primary caregiver. [Eff 2/11/02] (Auth: §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-3 Penalty. Any person violating SLH 2001, Act 273, or the rules in this chapter shall be fined not more than \$500. An appeal of the department's actions shall not stay the imposition of a

fine. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-4 Separability. If any section, subsection, paragraph, subparagraph, or clause of this chapter is for any reason held to be unconstitutional or invalid, the remaining portions of this chapter shall not be affected. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-5 Exceptions. Exceptions to the requirements of this chapter may be made at the discretion of the department. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

SUBCHAPTER 1

LICENSING

§17-1454-6 Operation of a home and community-based case management agency. An agency that wants to engage in locating, coordinating, and monitoring comprehensive services to residents in community care foster family homes and in issuing certificates of approval for community care foster family homes shall be licensed by the department as a home and community-based case management agency. The agency shall not have had a previous license to provide social or health care services that was revoked within twelve months of its current application for a home and community-based case management license. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-7 Application. (a) An agency that wants to be licensed as a home and community-based case management agency shall submit the following to the department:

- (1) An application form provided by the department;
- (2) A written statement of services to be provided;

- (3) Information relating to the agency's organization and administration;
- (4) A current audit report, completed by a person or organization licensed by the State to provide auditing services, or documentation that confirms the availability of adequate resources to finance and conduct the program;
- (5) Information on the number of staff members and the staff members' duties, educational backgrounds, and work experiences; and
- (6) Background check documents, as provided in section 17-1454-19.

(b) The date of application shall be the date the department receives all required forms and information necessary for the department to make a disposition.
 [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-8 Disposition of application. (a) The department shall dispose of an application for a license by the sixtieth day from the date of application.

(b) An evaluation of the application will be carried out by the department and may include, but is not limited to, one or more of the following:

- (1) Review of forms, documents, and information submitted as required under subsection 17-1454-7(a);
- (2) Review of administrative, fiscal, personnel, and resident case records; and
- (3) Service site visits to carry out one or more of the following activities:
 - (A) Inspect the premises;
 - (B) Interview service recipients;
 - (C) Interview and observe personnel; and
 - (D) Interview and observe sub-contractors providing services.

(c) The department shall dispose of the application by taking one of the following actions:

- (1) An agency shall be determined eligible for a license when the department clearly establishes through its evaluation and records that the agency meets all of the standards established in this chapter for licensure; or
- (2) An agency shall be determined ineligible for a license when the department establishes

through its evaluation and records that the agency does not meet the standards established in this chapter.

(d) When the department does not dispose of an application by the sixtieth day from the date of application, the agency shall be issued a provisional license that is valid for sixty days. The provisional license shall be:

- (1) Effective on the sixty-first day from the date of application;
- (2) A temporary measure and shall not constitute a disposition of the application. The application shall be processed and a final disposition shall be made as soon as possible; and
- (3) Renewable for periods no longer than sixty days, until the department makes a final disposition on the application. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-9 Issuance of license. (a) The department shall issue a license valid for:

- (1) One year; or
- (2) Two years, when the case management agency meets the following requirements:
 - (A) Has been in operation and licensed for at least one year as a home and community-based case management agency;
 - (B) Is in full compliance with all licensing standards;
 - (C) Has had no major changes in the organizational structure or in the case management agency's policies and procedures regarding case management services and the issuance of certificates of approval;
 - (D) Operator, employees, and new employees have no criminal history record, or adult protective service perpetrator history that pose a risk to the life, welfare, and health of residents; and
 - (E) Has had no complaints that were investigated and confirmed, and resulted in the development and implementation of a corrective action plan.

- (b) The license shall:
 - (1) Specify the name and address of the case management agency and be accompanied by a statement outlining the type of activities the case management agency is licensed to provide;
 - (2) Be non-transferable; and
 - (3) Be conspicuously posted on the premises of the case management agency. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-10 Reporting changes. The case management agency shall immediately report to the department changes that may affect the case management agency's ability to comply with the standards of this chapter. Changes to be reported include, but are not limited to, changes that may pose a risk to the life, welfare, or health of the resident; changes in the criminal history record and adult protective service perpetrator history of the operator or any employee; and changes in the organizational structure or office location. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-11 Renewal of license. (a) A license shall be renewed annually, or biennially when the requirements of section 17-1454-9(a)(2) are met.

(b) At least ninety days prior to the expiration date of a current license, the case management agency shall apply to the department for renewal of the license.

- (c) The renewal application shall include:
 - (1) An application form provided by the department;
 - (2) A current list of all employees, including information about their duties, educational backgrounds, and work experiences;
 - (3) Background check documentation as provided in section 17-1454-19; and
 - (4) Descriptions of any major changes in policies and procedures relating to case management services and the issuance of certificates of approval for community care foster family

homes since the case management agency was last licensed.

(d) The department shall evaluate the renewal application as provided in section 17-1454-8(b), to determine whether the case management agency is in compliance with the standards of this chapter.

(e) The department shall dispose of the renewal application by taking one of the following actions:

- (1) The case management agency shall be determined eligible for a renewal of its license when the department clearly establishes through its evaluation that all of the standards of this chapter have been met. A license shall be issued as provided in section 17-1454-9; or
- (2) The case management agency shall be determined ineligible for a renewal of its license when the department determines through its evaluation that the standards for licensure have not been met.

(A) The renewal application shall be denied and the case management agency shall be informed of this decision in writing; and

(B) The department shall follow the requirements of section 17-1454-31.

(f) A case management agency whose request for license renewal was denied because it did not comply with all of the requirements for licensure may reapply for a renewal of its license if:

- (1) Its current license was not revoked;
- (2) It has corrected all deficiencies identified by the department; and
- (3) There is at least ninety days remaining on its current case management agency license.
[Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-12 Appeal. The department's decision to deny or revoke a license under the provisions in this chapter may be appealed in accordance with chapter 91, HRS, but the appeal shall not stay the denial or revocation. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-13 Confidentiality of licensing records.
The provisions of chapter 17-1401 shall apply to this
chapter. [Eff 2/11/02] (Auth: HRS §346-14, SLH
2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§§17-1454-14 to 17-1454-17 (Reserved).

SUBCHAPTER 2

HOME AND COMMUNITY-BASED CASE MANAGEMENT AGENCY STANDARDS

§17-1454-18 Personnel. (a) The case management
agency shall be responsible for:

- (1) Having sufficient personnel to provide case management services to the resident in a community care foster family home, as provided in sections 17-1454-21 through 17-1454-25;
- (2) Locating, selecting, assigning, supervising, and training case management staff; and
- (3) Maintaining individual personnel files on all staff assigned to provide case management services to community care foster family home residents. The personnel files shall provide evidence of:
 - (A) Current Hawaii professional licenses, as applicable;
 - (B) Appropriate education and work experience;
 - (C) Current job description;
 - (D) Documentation of current blood borne pathogen and infection control training and cardiopulmonary resuscitation training for personnel in direct contact with a resident or an individual applying to become a resident in a community care foster family home;
 - (E) Current tuberculosis clearance that complies with department of health guidelines, for personnel in direct contact with a resident or an individual applying to become a resident in a community care foster family home;
 - (F) Current valid driver's license and

access to an insured vehicle, as applicable;

- (G) Orientation to the case management program, including operational procedures, agency policies and procedures, and case management responsibilities;
- (H) A signed statement indicating the employee's understanding of the case management agency's abuse and criminal history record policies; and
- (I) Current background checks and signed statements, as provided in section 17-1454-19.

(b) The case management agency shall have staff with a minimum of one year experience providing care coordination for elderly or disabled individuals in home and community-based settings, including but not limited to:

- (1) The development and review of service plans; and
- (2) Locating, coordinating, and monitoring comprehensive services to maintain and support individuals in the community.

(c) The case management agency shall employ qualified staff to provide case management services.

- (1) Case managers shall be a registered nurse or a social worker.
 - (A) A registered nurse shall have:
 - (i) A bachelor's degree in nursing;
 - (ii) Fulfilled the State's licensing requirements for nurses; and
 - (iii) At least two years experience with client care coordination responsibilities. The department may allow the substitution of two additional relevant years of experience for a bachelor's degree; and
 - (B) A social worker shall have:
 - (i) A master's degree in social work;
 - (ii) Fulfilled the State's licensing requirements, as appropriate; and
 - (iii) One year of experience with client care coordination responsibilities. The department may allow the substitution of two additional relevant years of experience for a

- master's degree;
- (2) Case managers shall have:
 - (A) Knowledge of current professional case management practices, standards, responsibilities, and procedures;
 - (B) Knowledge of the problems and needs of the targeted population, including social and psychosocial factors affecting optimal functioning of clients and their support systems;
 - (C) Knowledge of client's rights, state and federal laws, and regulations, such as those relating to health services, confidentiality, and consent issues for the targeted populations; and
 - (D) The skills and abilities to provide case management services as provided in these standards. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-19 Background checks. (a) As a condition for licensure, the operator, employees, and new employees of the case management agency shall have background checks performed for the following:

- (1) Criminal convictions; and
 - (2) Adult protective service perpetrator status.
- (b) The case management agency operator, employees, and new employees of the case management agency shall provide to the department:
 - (1) Signed statements under penalty of false swearing, indicating whether they have ever been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less, and the details thereof; and
 - (2) Written consents for the department to:
 - (A) Conduct criminal history record checks and obtain other criminal history record information for verification; and
 - (B) Obtain information regarding adult protective service perpetrator status.
- (c) The case management agency operator and employees shall be fingerprinted, and new employees of the case management agency shall be fingerprinted within five working days of employment.
 - (1) The department shall use the fingerprints to obtain criminal history record information

through the Hawaii criminal justice data center on the case management agency operator, employees, and new employees.

- (2) The information obtained shall be used exclusively for the stated purposes for which it was obtained, and shall be subject to such federal laws and regulations as may be now or hereafter adopted.

(d) The department may deny a license if an operator, employee, or new employee of the home and community-based case management agency poses a risk to the health, safety, or well-being of adults receiving care in community care foster family homes because of:

- (1) A conviction of a crime other than a minor traffic violation involving a fine of \$50 or less;
- (2) A criminal history record; or
- (3) A record of abuse of dependent adults as defined in section 346-222, HRS. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-20 Administrative requirements. (a) The case management agency shall have written policies and procedures that are consistent with the standards of this chapter and that relate to:

- (1) Overall program management, including administrative, personnel, quality assurance such as continuous quality improvement, risk management, fiscal, and program reporting requirements;
- (2) Compliance with all applicable federal and state laws, including those:
 - (A) Pertaining to adult protective services; and
 - (B) Prohibiting discrimination against any person, on the grounds of race, color, national origin, religion, creed, sex, age, marital status, handicap, or arrest and court records;
- (3) Certificates of approval, including the standards and requirements for application, eligibility, certification, evaluation, monitoring, investigation, recertification, corrective actions, and sanctions;
- (4) Services to residents, including the

- standards and requirements for application, eligibility, admission, discharge, transfer and readmission;
- (5) Case management service responsibilities, such as but not limited to:
 - (A) Assessment;
 - (B) Development and authorization of service plans;
 - (C) Service coordination;
 - (D) Monitoring;
 - (E) Reassessment procedures;
 - (F) Service recipient record and documentation requirements;
 - (G) Service recipient budgetary procedures; and
 - (H) Confidentiality and client rights;
 - (6) Access to case management agency and resident records upon request by the department or the department's designee; and
 - (7) Cooperation with the department when immediate removal of residents is necessary.
- (b) The case management agency shall cooperate with the department or its designee when it is being evaluated for compliance with the licensing standards, or the quality, adequacy and timeliness of services provided residents in community care foster family homes. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-21 Application for case management services. The case management agency shall:

- (1) Provide information to individuals and agencies regarding its case management services, eligibility criteria, and its application, admission, and other processes;
- (2) Utilize a standardized intake tool to request pertinent applicant information to determine eligibility for case management services;
- (3) Ensure that all eligibility requirements for the placement of an individual with nursing facility level of care needs in a community-based facility are met prior to the individual's admission;
- (4) Document the efforts made to provide an appropriate match between a community care foster family home and the individual applying for case management services; and

- (5) Provide information about and referral to other community resources, as appropriate.
[Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-22 Service planning. (a) The case management agency shall develop and authorize a service plan prior to the individual's admission to a residential care program.

(b) The service plan shall be based upon comprehensive assessments of the individual by appropriate case managers. These assessments shall include social and nursing evaluations that review the individual's health, functional, psychosocial, and financial situations and options for residential care.

(c) The service plan shall be written in a language that is understandable to the individual, the individual's family, the individual's legal representative, and the primary and substitute caregivers.

(d) The service plan shall:

- (1) Identify the problems and needs of the individual;
- (2) Establish realistic measurable goals to be attained for each problem identified in the social and nursing assessments;
- (3) Identify specific interventions and tasks to be implemented to address each problem and to ensure achievement of the goals specified in the service plan;
- (4) Identify specific types of services needed, the number of units, duration, and the frequency of service provision;
- (5) Specify the service provider or providers, primary and substitute, formal or informal, needed to address each problem and achieve each goal to safely maintain and support the individual in a community residential setting;
- (6) Be agreed to by the individual or the individual's legal representative;
- (7) Establish the frequency of case manager contacts, with a minimum frequency of once a month;
- (8) Be renewed and authorized, minimally once every six months or sooner when changes occur

to reflect the individual's current status and needs; and

- (9) Include a transportation plan to meet the non-medical transportation needs of the individual as provided in subsection 17-1454-40(b)(4).

(e) The case management agency shall ensure that a current service plan is in place when an individual moves from one residential setting to another, and that the requirements specified in section 17-1454-37 have been met if the individual is moved into another community care foster family home.

(f) When a resident chooses to transfer from one case management agency to another, a new service plan shall be developed by the new case management agency chosen by the resident.

(g) The case management agency shall use only appropriately licensed or certified facilities.

(h) The case management agency shall refer case management service recipients to the primary caregiver who, based on the case management agency's determination, has the ability to meet the health, welfare, and psychosocial needs of the individual, including care needs identified in a service plan.
[Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-23 Service coordination. The case management agency shall promote continuity of resident care, appropriate integration, and utilization of services by:

- (1) Authorizing, locating, and arranging for services necessary to implement the resident's service plan;
- (2) Providing caregivers with the necessary information about the resident and the resident's service plan to ensure timely and quality service delivery;
- (3) Assuring that the caregivers have the necessary skills to implement the service plan;
- (4) Coordinating caregiver training, hospital discharge, respite, home transfers, transfers between case management agencies, and other services as appropriate;
- (5) Facilitating, advocating, and mediating for residents, caregivers, and service providers

- to ensure linkages and provision of high quality care; and
- (6) Arranging and participating in resident care conferences, as appropriate. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-24 Service monitoring. (a) The case management agency shall provide continuing, regular contact with the caregiver, resident, and other service providers to ensure that:

- (1) Services are being provided in accordance with the service plan and continue to meet the resident's needs;
 - (2) The caregiver and home environment continue to meet the resident's needs;
 - (3) Sufficient progress is made towards achieving desired goals and outcomes; and
 - (4) All of the residents' rights, as provided in section 17-1454-49, are met.
- (b) The service monitoring process shall include:
- (1) Face-to-face contact with the resident at least once a month, with more frequent contacts depending on the resident's condition and the caregiver's capability;
 - (2) Regular RN monitoring of the resident who has a medically complex condition, as determined by a physician or RN. The frequency of this monitoring shall be specified in the service plan;
 - (3) Ongoing evaluation of the resident's response to and satisfaction with services provided and follow-up as needed;
 - (4) Ongoing evaluation of the appropriateness, timeliness, adequacy, and quality of services, caregivers, and home-like environment provided;
 - (5) Ongoing evaluation of the caregiver's status, behavior, and skills competency; substitute caregiver coverage and skills competency; and other caregiver responsibilities, such as child care or employment, to identify areas that may necessitate case management intervention;
 - (6) Assessment for, review, and follow-up activities on all reports of unusual

occurrences involving the resident, such as bodily injury sustained, all medication errors, and inappropriate or lack of resident supervision;

- (7) Follow-up activities to assure that substandard care and unsafe practices or conditions have improved, or to arrange for alternative placement, as provided in section 17-1454-31;
- (8) Assurance that a qualified caregiver is physically available to the resident twenty-four hours a day, seven days a week; and
- (9) Facilitating and documenting conflict resolution of resident complaints or grievances about services, service providers, as well as conflicts between contracted personnel and the resident. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-25 Reassessment. (a) The case management agency shall conduct reassessments every six months or sooner, as appropriate, and shall use standardized assessment tools to reevaluate the resident's:

- (1) Diagnosis, health, and functional, psychosocial, financial and environmental needs; and
- (2) Compliance with the requirements provided for in section 17-1454-41.

(b) The case management agency shall have the resident's physician re-certify the resident's level of care on an annual basis or more frequently as needed. The medicaid medical consultant shall approve the re-certification for the resident who is a medicaid recipient. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-26 Grievance and appeal. (a) The case management agency shall have policies and procedures by and through which a resident may present grievances about the operation of the program service and service delivery. The case management agency shall:

- (1) Inform the resident or the resident's legal

representative of the grievance procedures and the right to appeal in a grievance situation;

- (2) Obtain signed acknowledgements from the resident or the resident's legal representative that the grievance procedures were reviewed;
- (3) Provide a written copy of the grievance procedures, which includes the names and telephone numbers of the individuals who shall be contacted in order to report a grievance; and
- (4) Ensure that home operators are aware of and comply with the case management agency's policies and procedures for residents' grievances.

(b) The case management agency shall have policies and procedures by and through which applicants for and holders of community care foster family home certificates of approval may present grievances about the decisions of the case management agency. The case management agency shall:

- (1) Inform applicants and certificate holders of the grievance procedures and the right to appeal in a grievance situation;
- (2) Obtain signed acknowledgements from applicants and certificate holders that the grievance procedures were reviewed; and
- (3) Provide a written copy of the grievance procedures, which includes the names and telephone numbers of the individuals who shall be contacted in order to report a grievance. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-27 Records. (a) The case management agency shall maintain individual resident records in a manner which ensures legibility, order, and timely signing and dating of each entry in black ink.

- (b) Resident records shall be kept in detail to:
 - (1) Permit effective professional review; and
 - (2) Provide information for necessary follow-up and care for the resident.
- (c) Resident records shall contain:
 - (1) Information relating to the resident's status regarding application, eligibility,

- termination, admission, transfer, or discharge activities;
 - (2) Information documenting the case management agency's efforts to find an appropriate home;
 - (3) Information documenting the case management agency's assessment, service planning, service coordination, monitoring, and reassessment activities;
 - (4) All information and actions taken in response when changes occur in a resident's behavior and functioning which may necessitate more or less services or other types of intervention and update of the service plan; and
 - (5) Written documentation of the case management agency's assessment of all verbal and written reports received from the home regarding a resident, from other agencies or from the resident's family to determine what action is needed, what the case management agency did, and the disposition of the situation reported, as applicable.
- (d) The case management agency shall maintain records of applicants for and recipients of its certificates of approval as community care foster family homes. The records shall include the following:
- (1) Identifying information such as the applicant's:
 - (A) Full name, birth date, social security number, and birthplace;
 - (B) Religious preference;
 - (C) Marital status, and full name and social security number of spouse;
 - (D) Address and telephone number; and
 - (E) Identity of other household members, including full names, social security numbers, birth dates, and relationships to applicant;
 - (2) Application form for a certificate of approval to operate a community care foster family home;
 - (3) The case management agency's assessment and disposition of the application;
 - (4) Material related to the required criminal, employment, and background checks, including:
 - (A) Signed statements indicating any conviction of an offense for which incarceration is a sentencing option;
 - (B) Signed consents for the case management

- agency to conduct criminal history record checks and to obtain other criminal history record information for verification; and
- (C) Criminal history record information from the Hawaii criminal justice data center, and other employment and background information;
- (5) All written agreements between the case management agency and the community care foster family home operator;
- (6) All evaluative and assessment reports on the community care foster family home and its operator; and
- (7) All documents related to decisions to revoke certificates of approval, appeals of such decisions, and the final resolution of the appeals. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-28 Fiscal requirements. (a) The case management agency shall have adequate resources to finance the operating costs of administration, maintenance, personnel, and to conduct its programs, including the provision of case management services and the certification of community care foster family homes in accordance with the provisions of this chapter.

(b) The case management agency shall have written policies and procedures that ensure timely payments to community care foster family homes, as appropriate.

(c) Accounts shall be kept by the case management agency in a form conducive to sound and efficient fiscal management and audit.

(d) A person or organization licensed by the State to provide auditing services shall audit accounts once a year. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-29 Insurance requirements. (a) The case management agency shall obtain, maintain, and keep in force through an insurance company authorized to do business in the State, or that meets section 431:8-301, HRS, if using an insurance company not licensed by the State of Hawaii, the following liability insurance, as

appropriate:

- (1) General;
- (2) Automobile; and
- (3) Errors and omissions.

(b) All policies shall contain an endorsement that such insurance may not be cancelled except upon thirty-calendar days written notice to the State. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-30 Quality assurance. (a) The case management agency shall have internal policies and procedures for continuous quality improvement. The program shall include at least annual monitoring of:

- (1) The case management agency's compliance with licensing requirements, and plans for corrective action measures and their implementation dates, as appropriate; and
- (2) The community care foster family homes' compliance with certification requirements, and plans for corrective action measures and their implementation dates, as appropriate.

(b) The case management agency shall have internal risk management policies and procedures that provide for ongoing monitoring and assessment of reports of adverse events, and analysis for trends in adverse events. The policies and procedures shall require:

- (1) All service providers serving the resident to verbally report adverse events to the case management agency within twenty-four hours of the occurrence. Reports of adverse events shall include:
 - (A) All bodily injuries sustained by a resident, regardless of cause or severity;
 - (B) All medication errors resulting in unexpected reactions to drugs, treatment, or both;
 - (C) Major and unresolved conflicts between residents and the primary caregiver, substitute provider, contracted personnel, or other household members; or
 - (D) Any adult protective services report or investigation involving residents, personnel, or others in the household;

- (2) A written report to be sent to the case management agency within seventy-two hours, excluding weekends and holidays, following the verbal report required in paragraph (1).
- (3) An evaluation of each report of adverse event by the case management agency to determine the appropriateness of actions taken and completion of the report and follow-up process;
- (4) A summary to be provided to the department of the case management's evaluation of any report of adverse events and any action taken by the agency, including adjustments to the resident's service plan, as appropriate. This summary shall be received by the department within fifteen days after the agency receives a written report of adverse event; and
- (5) Quarterly assessment of reports of adverse events by the case management agency to determine trends and to document preventative actions taken when significant trends are noted.

(c) The case management agency shall have policies and procedures requiring all service providers serving the resident to inform the case management agency of any changes occurring in the resident's behavior and functioning that may necessitate a change and update of the resident's service plan.

- (1) The case management agency shall require a verbal report from all service providers serving the resident within twenty-four hours of the occurrence of any of the following:
 - (A) Changes in the resident's condition requiring emergency treatment;
 - (B) Hospitalization of the resident;
 - (C) Environmental changes or disasters affecting the delivery of services to the resident; and
 - (D) Death of the resident.
- (2) A written report shall be sent to the case management agency within seventy-two hours, excluding week ends and holidays, following the verbal report required in paragraph (1).
- (3) The case management agency shall have procedures for handling reports required in paragraph (1).
- (d) The case management agency shall ensure that

the community care foster family home has internal emergency management procedures that provide documented procedures for emergency situations that may affect the resident, such as but not limited to:

- (1) Sudden illness or accident;
- (2) Death;
- (3) Violent acts or abuse;
- (4) Natural disasters;
- (5) Fire; and
- (6) Power and telephone outage.

(e) The case management agency and the community care foster family home shall be subject to investigation by the department at any time. The investigation may be announced or unannounced and may include, but is not limited to, one or more of the following:

- (1) Reviews of administrative, fiscal, personnel, and resident records;
 - (2) Inspection of service sites;
 - (3) Service site visits to interview residents and to observe personnel and sub-contractors providing services; and
 - (4) Interviews with case management personnel and community care foster family home staff and other adults, and service sub-contractors.
- [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-31 Corrective action and sanctions for case management agency. (a) When the department determines that a case management agency has failed or is unable to comply with all of the standards of this chapter, the department shall notify the case management agency in writing of the specific areas of noncompliance and may do one or more of the following:

- (1) Establish a specific time frame for the correction of each area of noncompliance;
- (2) Require submission of a written corrective action plan from the case management agency that addresses each area of noncompliance;
- (3) Seek the transfer of residents to another case management agency;
- (4) Suspend the admission of new residents;
- (5) Levy a fine as provided in section 17-1454-3; or
- (6) Revoke the license;

(b) When the identified areas of noncompliance are not corrected within the time specified in an accepted plan of correction, the department may do one or more of the following:

- (1) Require the transfer of residents to another case management agency;
- (2) Suspend the admission of new residents;
- (3) Levy a fine as provided in section 17-1454-3; or
- (4) Revoke the license.

(c) A license shall be immediately revoked when there is noncompliance that poses an imminent risk to the life, health, or welfare of the resident.

(d) Upon revocation of its license, the case management agency shall immediately notify the community care foster family homes it has certified and all of its case management service recipients.

(e) A revoked license shall be restored only when a new application for a license is submitted to the department and the application is approved.

(f) An appeal of the department's actions shall not stay the revocation of the license. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-32 Denial or revocation of license, imposition of a fine, right to appeal. The department shall deny or revoke a license, or impose a fine under the provisions of this chapter, as follows:

- (1) The department shall provide written notice of the denial, revocation, or fine, by registered or certified mail with return receipt requested addressed to the location shown on the application or license.
- (2) The written notice shall contain a statement of the reasons for the proposed action and shall give notice of the right to appeal the decision to the director of the department in accordance with Hawaii Revised Statutes, chapter 91, not later than ten working days after mailing of the notice of the proposed action.
- (3) Upon receiving a timely written appeal, the director of the department shall send a written acknowledgement of the receipt of the timely written appeal addressed to the location shown on the application or license.

The acknowledgement shall be sent no later **[then] than** fifteen days following the receipt of the timely written appeal. The department shall provide an opportunity for a prompt hearing before a departmental hearing officer with respect to the proposed action, and shall provide written notice of the hearing by registered or certified mail with return receipt requested at least fifteen days before the hearing. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the application or licensing shall be denied or revoked, as to whether a fine shall be imposed; and

- (4) If no timely written appeal is made, processing of the application shall end, or the license shall be revoked and a fine may be imposed, at the end of the ten-day period. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§§17-1454-33 to 17-1454-36 (Reserved).

SUBCHAPTER 3

COMMUNITY CARE FOSTER FAMILY HOME STANDARDS

§17-1454-37 Operation of a community care foster family home. A person, agency, or organization that wants to operate a home as a community care foster family home shall be issued a certificate of approval by a home and community-based case management agency licensed by the department. The person, agency, or organization shall not have had a previous certificate or license to provide residential, social, or health care services that was revoked within twelve months of the current application for a certificate of approval to operate a community care foster family home. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-38 Recruitment and assessment of community care foster family home. (a) The case

management agency shall be responsible for locating community care foster family homes. This responsibility shall include:

- (1) Providing orientation to the primary and substitute caregivers, and maintaining documentation of the receipt of such orientation, which shall include but is not limited to the following:
 - (A) Community care foster family home services, eligibility criteria, application and admission requirements, and procedures; and
 - (B) Roles and responsibilities of community care foster family home caregivers;
- (2) Locating caregivers who have no physical or mental disabilities that would prevent the caregivers from meeting the daily needs of residents on a twenty-four hour basis;
- (3) Conducting an initial psychosocial assessment of the caregiving family system to establish the family system's capacity to meet the standards for certification and to provide services. A standardized tool that relates to the care and needs of residents shall be utilized for this assessment. The psychosocial assessment shall be updated as appropriate.

(b) The case management agency shall use a standardized home assessment tool to evaluate the community care foster family home to enable the case management agency to determine whether the home shall be accepted as a qualified service provider. The tool shall assess:

- (1) Compliance with the certification standards established by the case management agency; and
- (2) Cleanliness, ventilation, lighting, safety, space, organization, and architectural barriers.

(c) The case management agency shall document the initial skill competency of caregivers to perform the tasks necessary for implementation of each service plan and care of residents. Updates shall be documented as appropriate.

(d) The case management agency shall:

- (1) Provide all necessary forms, records, and information regarding the resident and the resident's care upon admission to the

- community care foster family home; and
- (2) Conduct training as necessary to ensure that caregivers are skilled to care for the resident in their homes.

(e) A new home assessment shall be required when changes occur to the structure or address of the community care foster family home. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-39 Issuance and renewal of certificate of approval. (a) The case management agency shall establish and implement standards and procedures for issuing and renewing the certificates of approval that comply with the requirements of this chapter.

(b) The application for certification or renewal of certification shall be evaluated as provided in section [17-1454-37(b)] 17-1454-38(b) and the certificate of approval shall be issued or renewed when a home is in compliance with the standards of this chapter, and any additional requirements established by the case management agency and agreed upon by the homes.

(c) The certificate of approval shall be issued or renewed for one year unless sooner revoked as provided in section 17-1454-50.

(d) The community care foster family home that is issued a certificate of approval shall have the right to choose the home and community-based case management agency with which it will affiliate itself.

(e) The application for a new certificate or renewal of a current certificate shall be denied when the case management agency determines that the home does not meet the standards it has established for issuance or renewal of the certificate of approval.

(f) Information concerning certificates of approval that are issued, renewed, or revoked by the case management agency shall be provided to the department by the case management agency no later than two working days after the case management agency makes a disposition on a certificate. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-40 Background checks. (a) As a condition for certification, all adults residing in a

care foster family home, except for clients, shall have background checks performed for the following:

- (1) Criminal convictions; and
 - (2) Adult protective service perpetrator status.
- (b) All adults in the home seeking certification, except for clients, shall provide to the case management agency:

- (1) Signed statements under penalty of false swearing, indicating whether they have ever been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less; and
 - (2) Written consents for the case management agency to:
 - (A) Conduct criminal history record checks and obtain other criminal history record information for verification; and
 - (B) Obtain information regarding adult protective service perpetrator status.
- (c) All adults in the home seeking certification, except for clients, shall be fingerprinted.

- (1) The case management agency shall use the fingerprints to obtain criminal history record information through the Hawaii criminal justice data center.
- (2) The information obtained shall be used exclusively for the stated purposes for which it was obtained, and shall be subject to such federal laws and regulations as may be now or hereafter adopted.

(d) The case management agency may deny a certificate of approval if any adult residing in the home, except for clients, poses a risk to the health, safety, or well-being of adults receiving care in community care foster family homes because of:

- (1) A conviction of a crime other than a minor traffic violation involving a fine of \$50 or less;
- (2) A criminal history record; or
- (3) A record of abuse of dependent adults as defined in section 346-222, HRS. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-41 Personnel and staffing. (a) The

foster family home and be a home health aide, a nurse aide, an LPN, or an RN;

(b) The primary caregiver and substitute caregiver shall meet the following requirements:

- (1) The primary caregiver must be at least twenty-one years old, and the substitute caregiver shall be at least eighteen years old;
- (2) Be able to communicate, read, and write in the English language;
- (3) Cooperate with the case management agency to complete a psychosocial assessment of the caregiving family system, including but not limited to physical and mental disabilities, problem solving skills, coping strategies, and anger management that would prevent or limit the individuals from meeting the daily needs of residents on a twenty-four hour basis;
- (4) Provide non-medical transportation through possession of a valid Hawaii driver's license and access to an insured vehicle, or an alternative approved by the agency.
 - (A) When the caregiver does not have a valid driver's license, does not have access to an insured vehicle, or both, a written alternative transportation plan shall be submitted to the case management agency for approval;
 - (B) The transportation plan may include but is not limited to the use of a handivan, taxi, or a substitute driver;
 - (C) When a substitute driver is used, the substitute driver shall:
 - (i) Have a valid driver's license;
 - (ii) Have a current tuberculosis clearance;
 - (iii) Provide a signed statement indicating no conviction record that may place the resident at risk of harm; and
 - (iv) Use of an insured vehicle;
- (4) Comply with all applicable federal, state, and county laws, ordinances, rules, regulations, and licensing requirements, including statutes that prohibit discrimination against any person, on the

religion, creed, sex, age, marital status, or
handicap;

- (6) Have a current tuberculosis clearance that meets department of health guidelines; and
- (7) Have documentation of current training in blood borne pathogen and infection control, cardiopulmonary resuscitation, and basic first aid.

(c) The primary caregiver shall attend twelve hours, and the substitute caregiver shall attend eight hours, of in-service training annually which shall be approved by the case management agency as pertinent to the management and care of residents. The primary caregiver shall maintain documentation of training received by all caregivers, in the caregiver file in the home.

(d) The primary caregiver shall identify all qualified substitute providers, approved by the case management agency, who provide services for residents. The primary caregiver shall maintain a file on the substitute providers with evidence that the substitute providers meet the requirements specified in this section.

(e) The primary caregiver shall maintain a file on all adult household members who are not substitute providers with evidence that they have current:

- (1) Tuberculosis clearances that meet department of health guidelines; and
- (2) Criminal record checks.

(f) The primary and substitute caregivers shall be assessed by the case management agency for competency in basic caregiver skills and specific skill areas needed to perform tasks necessary to carrying out each resident's service plan. The documentation of training and skill competency of all caregivers shall be kept in the resident's, case manager's, and caregiver's current records with the current service plan.

(g) The primary caregiver shall ensure that all substitute caregivers are approved by the case management agency and shall provide a verbal report of all substitute caregiver changes, including additions, terminations and replacements, to the case management agency.

(h) The primary caregiver shall notify the case management agency of any dependent household members.

- (i) When the primary caregiver will be absent or

unable to perform regular duties, and residents are
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present, the primary caregiver shall:

- (1) Assure that a substitute caregiver is available and capable of managing all resident care and any event occurring in the home; and
- (2) Authorize all substitute caregivers to permit entrance by case management agency and department staff, with or without prior notice, for the purpose of client monitoring, investigation, and quality assurance review. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-42 Resident eligibility requirements.
To be admitted to the community care foster family home, the individual shall:

- (1) Be certified by a physician as requiring nursing facility level of care. The medicaid agency medical consultant shall certify the individual who is a medicaid recipient;
- (2) Voluntarily choose to enter a community care foster family home;
- (3) Have a physical examination by a physician within thirty days prior to admission or within seven days after admission; and
- (4) Have a tuberculosis clearance issued within twelve months prior to admission.
 - (A) An adult protective service client may be admitted for emergency reasons without a current tuberculosis clearance, provided that the process to obtain a clearance is begun within three days after being admitted to the home.
 - (B) All tuberculosis clearances shall comply with testing procedures established by the department of health. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-43 Resident care and services. (a) The community care family foster home shall care for not more than two adults at any one time, who are unrelated to the foster family.

(b) One bed in each licensed community care
§17-1454-43

foster family home located in any county having a population of 500,000 or more persons shall be reserved for medicaid recipients.

(c) Care and services provided to the resident shall:

- (1) Be appropriate to the age and condition of the individual resident and provided in a homelike environment;
- (2) Be based on care directions from the individual resident to the maximum extent possible, with monitoring by the case management agency when the resident is not capable of providing care directions;
- (3) Include the case management agency assisting the resident and the resident's family, as appropriate, to obtain a legal representative, such as a guardian, when necessary and appropriate;
- (4) Be based on the caregiver following a service plan for addressing the resident's needs. The RN case manager may delegate resident care and services as provided in chapter 16-89, subchapter 15, HAR;
- (5) Include the provision of personal care, homemaker, and respite services as appropriate;
- (6) Include the caregiver observing the following provisions of care:
 - (A) Appropriate, safe techniques, and infection control procedures; and
 - (B) Encouragement of resident independence as much as possible; and
- (7) Include recreation and social activities, which shall:
 - (A) Be arranged and provided, in accordance with the service plan, in or outside the home according to the resident's interests, needs, and capabilities; and
 - (B) Include access by the resident to radio, television, and telephone. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-44 Resident transfer and discharge. (a)
The transfer and discharge of the resident may occur

when:

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- (1) The resident or the resident's legal representative chooses to transfer from one case management agency to another and the community care foster family home where the resident resides is not affiliated with the case management agency of the resident's choice;
 - (2) The community care foster family home chooses to transfer its affiliation to a case management agency that the resident has not chosen, necessitating a transfer of the resident to another residential setting of the resident's choice;
 - (3) The community care foster family home is unable to meet the needs of the resident;
 - (4) The primary caregiver and the resident notify the case management agency of intended transfers or discharges;
 - (5) A minimum of three weeks advance notice is given prior to any transfer or discharge to:
 - (A) The community care foster family home and the case manager, when the transfer or discharge is initiated by the resident or the resident's legal representative; or
 - (B) The resident and the resident's legal representative, when the transfer or discharge is initiated by the case management agency or the community care foster family home;
 - (6) Three weeks advance notice shall not be required for emergency transfers or discharges, or when mutually agreed upon by the resident or the resident's legal representative, the community care foster family home, and the case manager.
- (b) All transfers and discharges will be coordinated with the resident, the resident's legal representative, the case management agency, and the community care foster family home.
- (c) The community care foster family home operator shall cooperate with the case management agency and the department when immediate removal of the resident is necessary.
- (d) The immediate removal of the resident shall be ordered when the case management agency or the department determines there is imminent danger to the

life, welfare, or health of the resident.
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(e) When the resident is relocated, the community care foster family home operator shall not obstruct the relocation process and shall cooperate with the appropriate case management agencies in the relocation process. Such cooperation shall include but not be limited to:

- (1) Identifying and preparing for removal of the medications, insurance documents, clothing, safeguarded cash resources, valuables and all other belongings of the resident; and
- (2) Providing access to the resident's file during relocation and return of the file to the case management agency upon relocation.

(f) A community care foster family home that will voluntarily close must notify the certifying case management agency in writing ninety days prior to the voluntary closure. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-45 Fire safety. (a) The home shall conduct, document, and maintain a record, in the home, of unannounced fire drills at different times of the day, evening, and night. Fire drills shall be conducted at least monthly under varied conditions and shall include the testing of smoke detectors.

(b) The home shall assure that:

- (1) The resident who is bed bound or unable to make independent decisions about individual safety shall have a designated person available at all times capable of evacuating the resident; and
- (2) All caregivers have been trained to implement appropriate emergency procedures in the event of a fire. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-46 Medication and nutrition. (a) A licensed practical nurse or a registered nurse shall administer medications that are to be injected, unless physician orders permit a resident to self-inject. The registered nurse may delegate the administration of medication as provided in chapter 16-89, subchapter 15, HAR.

- (b) The primary caregiver shall obtain training,
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relevant information, and regular monitoring from the resident's physician, a home health agency, or an RN for all medication that the resident requires.

(c) Medication errors and drug side effects shall be reported immediately to the resident's physician, and the case management agency shall be notified within twenty-four hours of such occurrences. The primary caregiver shall document these events and the action taken in the resident's progress notes, and submit a written report to the case management agency within seventy-two hours of the occurrence.

(d) Use of physical or chemical restraints shall be:

- (1) By order of a physician;
- (2) Reflected in the resident's service plan; and
- (3) Based on an assessment that includes the consideration of less restrictive restraint alternatives.

(e) The primary caregiver shall obtain specific instructions and training regarding special feeding needs of residents from a person who is registered, certified, or licensed to provide such instructions and training. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-47 Resident account. (a) The community care foster family home shall maintain a written accounting of the resident's personal funds received and expended on the resident's behalf by the community care foster family home.

(b) Personal funds and valuables of the resident handled by the community care foster family home for safekeeping shall not be:

- (1) Commingled with those of the community care foster family home, the primary or substitute caregivers, other household members, or other residents; or
- (2) Used as the community care foster family home funds or petty cash. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-48 Physical environment. (a) The community care foster family home shall include:

(1) Bathrooms with non-slip surfaces in the tubs
§17-1454-48

- and or showers, and toilets adjacent or easily accessible to sleeping rooms;
- (2) Grab bars in bath and toilet rooms used by the resident, as appropriate;
- (3) A common living area, which is adequate for socialization and the recreational needs of the resident;
- (4) Wheelchair accessibility to sleeping rooms, bathrooms, common areas and exits, as appropriate;
- (5) An operating underwriters laboratory approved smoke detector and fire extinguisher in appropriate locations; and
- (6) A means of unobstructed travel from the resident's bedroom to the outside of the dwelling at street or ground level.
- (b) Resident bedrooms shall:
 - (1) Have a bedside curtain or screen to ensure privacy when a room is shared by the resident and another person;
 - (2) Be limited to two residents. Both occupants shall consent to the arrangement; and
 - (3) Be in close proximity to the primary caregiver for timely intervention for nighttime needs or emergencies, or be equipped with a call bell or intercom, approved by the case management agency.
- (c) Housekeeping requirements shall include the following:
 - (1) The primary caregiver shall follow appropriate preventative maintenance procedures for equipment and devices used in the care of residents;
 - (2) The primary caregiver shall follow infection control procedures and proper procedures for disinfecting equipment and devices used in the care of the resident; and
 - (3) The community care foster family home shall be maintained in a clean and safe manner.
- (d) When there are intended changes to the home, the case management agency that issued the certificate of approval shall be notified prior to the changes occurring. The certificate holder and the certifying case management agency shall ensure that the minimum physical environment requirements as specified in this section are met. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH

§17-1454-49 Insurance requirements. The community care foster family home shall obtain, maintain, and keep in force through an insurance company authorized to do business in the State, or that meets section 431:8-301, HRS, if using an insurance company not licensed by the State of Hawaii, the following liability insurance, as appropriate:

- (1) General;
- (2) Automobile; and
- (3) Errors and omissions. [Eff 2/11/02]
(Auth: HRS §346-14, SLH 2001, Act 273) (Imp:
HRS §346-14, SLH 2001, Act 273)

§17-1454-50 Resident rights. (a) Written policies regarding the rights of the resident during the resident's stay in the community care foster family home shall be established and shall be made available to the resident, the resident's legal representative, next of kin, sponsoring case management agency, and to the public.

(b) The community care foster family home's resident rights policies and procedures shall provide that each resident in the home shall:

- (1) Be fully informed, prior to or at the time of admission, of these rights and of all rules governing the resident's conduct in the community care foster family home. There shall be documentation signed by the resident or the resident's legal representative that this procedure has been carried out;
- (2) Have the right to reside in the community care foster family home of the resident's choice;
- (3) Have the right to choose a case management agency of the resident's choice;
- (4) Be fully informed, prior to or at the time of admission, and during the resident's stay, of services available in or through the community care foster family home and related charges;
- (5) Be given a minimum of three weeks advance notice of transfers or discharges, except in emergencies;
- (6) Be encouraged and assisted to exercise the resident's rights, including the resident's grievance rights, and to recommend changes in

caregiver or outside representatives of the resident's choice, free from restraint, interference, coercion, discrimination, or retaliation.

- (A) The resident shall be assisted in contacting individuals or agencies of the resident's choice by the case management agency; and
- (B) The resident may present grievances to the department;
- (7) Have explained to the resident the conditions under which the community care foster family home may manage the resident's personal financial affairs;
- (8) Not be humiliated, harassed, or threatened, and be free from physical and chemical restraints. Physical and chemical restraints may be used as specified in section 17-1454-45(d);
- (9) Have the resident's personal and medical records kept confidential;
- (10) Be treated with understanding, respect, and full consideration of the resident's dignity and individuality, including privacy in treatment and in care of the resident's personal needs;
- (11) Not be required to perform services for the community care foster family home unless agreed to by the resident and documented;
- (12) Have the right to associate and communicate privately with persons of the resident's choice, and to send and receive personal mail and items unopened;
- (13) Have the right to meet with and participate in activities of social, religious, and community groups at the resident's discretion;
- (14) Retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other residents;
- (15) If married, be assured of privacy for visits by the spouse and, if both are residents in the community care foster family home, be permitted to share a room, if agreeable to both;
- (16) Have daily visiting hours and provisions for

- (17) Shall not have dietary restrictions used as punishment; and
- (18) Have a right to be free from abuse. [Eff 2/11/02] (Auth: HRS §346-14, SLH 2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§17-1454-51 Corrective action and sanctions for foster family homes. (a) When the case management agency determines that a community care foster family home has failed or is unable to comply with the standards of this chapter, the case management agency shall notify the home operator of the specific areas of noncompliance in writing and may do one or more of the following:

- (1) Establish a specific time frame for the correction of each area of noncompliance;
- (2) Require submission of a written corrective action plan from the home operator that addresses each area of noncompliance;
- (3) Seek the transfer of residents to another community care foster family home;
- (4) Suspend the admission of new residents; or
- (5) Revoke the certificate of approval.

(b) When the identified areas of noncompliance are not corrected within the time specified in an accepted plan of correction, the case management agency shall do one or more of the following:

- (1) Require the transfer of residents to another residential setting of the resident's choice;
- (2) Suspend the admission of new residents; or
- (3) Revoke the certificate of approval.

(c) A certificate of approval shall be immediately revoked when there is noncompliance that poses an imminent risk to the life, health, or welfare of the resident.

(d) Upon revocation of its certificate, the home operator shall immediately notify the residents in the home.

(e) A revoked certificate of approval shall be restored only after a new application for a certificate is submitted to the case management agency and approved.

(f) An appeal of the case management agency's actions shall not stay the revocation of the certificate. [Eff 2/11/02] (Auth: HRS §346-14,

273)

§17-1454-52 Records. (a) Each community care foster family home shall maintain an administrative notebook including but not limited to:

- (1) Emergency procedures and an evacuation map;
- (2) Appropriate program policies and procedures; and
- (3) A list of applicable community resources.

(b) The community care foster family home shall maintain separate notebooks for each resident in a manner that ensures legibility, order, and timely signing and dating of each entry in black ink. Each resident notebook shall be a permanent record and shall be kept in detail to:

- (1) Permit effective professional review by the case management agency; and
- (2) Provide information for necessary follow-up care.

(c) The content of each resident notebook shall be consistent with standards established by the case management agency and shall contain:

- (1) Resident's vital information;
- (2) Resident's current individual service plan, and when appropriate, a transportation plan approved by the case management agency;
- (3) Current copies of the physician's orders;
- (4) Resident's emergency management procedures;
- (5) Medication schedule checklist;
- (6) Daily documentation of the provision of services through personal care or skilled nursing daily check list, RN and social worker monitoring flow sheets, resident observation sheets, and significant events;
- (7) Expenditure records; and
- (8) Personal inventory.

(d) All resident records and reports are confidential and shall not be released without the written consent of the resident, or the case management agency, as applicable. The case management agency shall be informed of any request for the release of information concerning residents and shall retain a copy of the resident's written consent to release information.

(e) When a resident leaves a community care foster family home, all records and reports kept by the

community care foster family home shall be given to the
§17-1454-56

case management agency that originated the records and
reports. [Eff 2/11/02] (Auth: HRS §346-14, SLH
2001, Act 273) (Imp: HRS §346-14, SLH 2001, Act 273)

§§17-1454-53 to 17-1454-56 (Reserved).